

Advantages and Disadvantages of Regulating Private Views And Other Jurisdictions' Approaches to Regulating Private Views

Advantages

- **Potential for a Greater Number of View Properties.** Considering potential view impacts may result in a larger number of view properties. The resulting view may not be as spectacular on an individual basis as neighboring property owners are forced to share the views, but the potential number of properties with some view could increase.
- **Efficient Development Patterns.** Sometimes, property owners who have an established view blocked by a new development expand development on their property to “recapture” their view. Some consider this chain reaction of development wasteful and illogical. Regulating private views could break this cycle of expansion and lead to more efficient, environmentally sensitive development patterns.
- **Further City Goals to Be Responsive to Public Concerns.** Several members of the public have requested this issue be addressed over a number of years. Addressing the concerns regarding this issue would be consistent with City goals to be responsive to public concerns.

Disadvantages

- **Private Issue Between Neighbors** Is it fair for the City to restrict private development to protect a private view? Just because one lot developed before, or more extensively, than an adjacent lot, should the City intervene to protect the private view? Some argue that, if a property owner would like to preserve a private view, then the property owner should purchase a “view easement” from their neighbor. Persons with this perspective believe private views and private easement negotiations should be a purely private matter.
- **Equity Issue Regarding Not Equally Protecting Previously Developed Properties Which Have Already Lost Views?** Some views have already been degraded or lost by development. Vested property rights preclude effective recourse for these properties. Is it fair to begin protecting views now, when private views were not protected in the past?
- **Administratively Difficult to Implement.** Documenting and protecting private views can be administratively difficult. Some jurisdictions have staff visit sites of properties which may be affected by new development to document or “register” the primary view of a property and analyze the impact of a new development on that view. Alternatively, the City could require applicants to submit materials documenting view impacts. However, the value of submitted materials can be suspect due to the potential for distortion through use of perspectives or photograph simulation mark up techniques, etc. Furthermore, each iteration of

changed plans would require renewed view impact analysis. Staff questions whether it is feasible to invest large amounts of staff time to analyze and assist design review boards in interpreting potential private view impacts. How would costs of additional planner work to address private views be recouped?

- **Longer Design Review Hearings.** Design review boards already are experiencing prolonged hearings. Discussion of potential private view impacts would lengthen agendas.
- **Complicated Design Review Focus.** A strong central focus of increasing architectural quality and compatibility is already a very large task for the design review bodies. Expanding design review focus to include careful consideration of Good Neighbor Policy and private view considerations would complicate the task of the design review bodies. A potential to detract from aesthetic architectural design quality by expanding purview could result. Also, might some architects lose interest serving on the design review boards with this wider focus?

Other Jurisdictions

There are many examples of how other jurisdictions have addressed private views to some extent. Most of the cities that put substantial efforts into private view protection are small and usually primarily residential with substantially less construction to consider. Del Mar's population is about 4,400. Palos Verdes Estates has about 13,400 people. Tiburon has about 6,700 people.

City of Del Mar: The City of Del Mar Municipal Code includes provisions for project denials where "The design will create an unreasonable invasion of the privacy of neighboring properties. The proposed development unreasonably encroaches upon primary scenic views of neighboring property."

City of Palos Verdes Estates: The City of Palos Verdes Estates' Neighborhood Compatibility Handbook addresses private views. Private views are encouraged to be protected, but are not required to be protected from neighboring structures under 16' in height. Projects over 16' in height trigger neighbor view protection provisions. In part, the Guidelines state:

"In accordance with... the Municipal Code, views from the viewing area of neighboring residences are protected by the City when structures exceed the 16-foot "by right" height limit. As such, in cases where a Height Variation application is required for a proposed project that exceeds the 16-foot "by-right" height limit, views from a neighboring residence should be preserved by carefully positioning a new structure or addition, and by limiting the project's width, depth, and height. Although views that may be blocked by a structure below 16-feet are not protected, residents are encouraged, but not required, to take their neighbor's views into account when designing a project below 16-feet in height."

